

ASSEMBLY BILL

No. 1582

Introduced by Assembly Member Mullin

February 3, 2014

An act to amend Section 34177 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1582, as introduced, Mullin. Redevelopment: successor agencies: Recognized Obligation Payment Schedule.

The Community Redevelopment Law authorized the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies. Existing law requires a successor agency to, among other things, prepare a Recognized Obligation Payment Schedule for payments on enforceable obligations for each 6-month fiscal period.

This bill would revise the timeline for the preparation of the required Recognized Obligation Payment Schedule to provide that the successor agency prepare a schedule for an annual fiscal period.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34177 of the Health and Safety Code is
2 amended to read:

1 34177. Successor agencies are required to do all of the
2 following:

3 (a) Continue to make payments due for enforceable obligations.

4 (1) On and after February 1, 2012, and until a Recognized
5 Obligation Payment Schedule becomes operative, only payments
6 required pursuant to an enforceable obligations payment schedule
7 shall be made. The initial enforceable obligation payment schedule
8 shall be the last schedule adopted by the redevelopment agency
9 under Section 34169. However, payments associated with
10 obligations excluded from the definition of enforceable obligations
11 by paragraph (2) of subdivision (d) of Section 34171 shall be
12 excluded from the enforceable obligations payment schedule and
13 be removed from the last schedule adopted by the redevelopment
14 agency under Section 34169 prior to the successor agency adopting
15 it as its enforceable obligations payment schedule pursuant to this
16 subdivision. The enforceable obligation payment schedule may
17 be amended by the successor agency at any public meeting and
18 shall be subject to the approval of the oversight board as soon as
19 the board has sufficient members to form a quorum. In recognition
20 of the fact that the timing of the California Supreme Court's ruling
21 in the case California Redevelopment Association v. Matosantos
22 (2011) 53 Cal.4th 231 delayed the preparation by successor
23 agencies and the approval by oversight boards of the January 1,
24 2012, through June 30, 2012, Recognized Obligation Payment
25 Schedule, a successor agency may amend the Enforceable
26 Obligation Payment Schedule to authorize the continued payment
27 of enforceable obligations until the time that the January 1, 2012,
28 through June 30, 2012, Recognized Obligation Payment Schedule
29 has been approved by the oversight board and by the Department
30 of Finance.

31 (2) The Department of Finance and the Controller shall each
32 have the authority to require any documents associated with the
33 enforceable obligations to be provided to them in a manner of their
34 choosing. Any taxing entity, the department, and the Controller
35 shall each have standing to file a judicial action to prevent a
36 violation under this part and to obtain injunctive or other
37 appropriate relief.

38 (3) Commencing on the date the Recognized Obligation Payment
39 Schedule is valid pursuant to subdivision (f), only those payments
40 listed in the Recognized Obligation Payment Schedule may be

1 made by the successor agency from the funds specified in the
2 Recognized Obligation Payment Schedule. In addition, after it
3 becomes valid, the Recognized Obligation Payment Schedule shall
4 supersede the Statement of Indebtedness, which shall no longer
5 be prepared nor have any effect under the Community
6 Redevelopment Law (Part 1 (commencing with Section 33000)).

7 (4) Nothing in the act adding this part is to be construed as
8 preventing a successor agency, with the prior approval of the
9 oversight board, as described in Section 34179, from making
10 payments for enforceable obligations from sources other than those
11 listed in the Recognized Obligation Payment Schedule.

12 (5) From February 1, 2012, to July 1, 2012, a successor agency
13 shall have no authority and is hereby prohibited from accelerating
14 payment or making any lump-sum payments that are intended to
15 prepay loans unless such accelerated repayments were required
16 prior to the effective date of this part.

17 (b) Maintain reserves in the amount required by indentures,
18 trust indentures, or similar documents governing the issuance of
19 outstanding redevelopment agency bonds.

20 (c) Perform obligations required pursuant to any enforceable
21 obligation.

22 (d) Remit unencumbered balances of redevelopment agency
23 funds to the county auditor-controller for distribution to the taxing
24 entities, including, but not limited to, the unencumbered balance
25 of the Low and Moderate Income Housing Fund of a former
26 redevelopment agency. In making the distribution, the county
27 auditor-controller shall utilize the same methodology for allocation
28 and distribution of property tax revenues provided in Section
29 34188.

30 (e) Dispose of assets and properties of the former redevelopment
31 agency as directed by the oversight board; provided, however, that
32 the oversight board may instead direct the successor agency to
33 transfer ownership of certain assets pursuant to subdivision (a) of
34 Section 34181. The disposal is to be done expeditiously and in a
35 manner aimed at maximizing value. Proceeds from asset sales and
36 related funds that are no longer needed for approved development
37 projects or to otherwise wind down the affairs of the agency, each
38 as determined by the oversight board, shall be transferred to the
39 county auditor-controller for distribution as property tax proceeds
40 under Section 34188. The requirements of this subdivision shall

1 not apply to a successor agency that has been issued a finding of
2 completion by the Department of Finance pursuant to Section
3 34179.7.

4 (f) Enforce all former redevelopment agency rights for the
5 benefit of the taxing entities, including, but not limited to,
6 continuing to collect loans, rents, and other revenues that were due
7 to the redevelopment agency.

8 (g) Effectuate transfer of housing functions and assets to the
9 appropriate entity designated pursuant to Section 34176.

10 (h) Expeditiously wind down the affairs of the redevelopment
11 agency pursuant to the provisions of this part and in accordance
12 with the direction of the oversight board.

13 (i) Continue to oversee development of properties until the
14 contracted work has been completed or the contractual obligations
15 of the former redevelopment agency can be transferred to other
16 parties. Bond proceeds shall be used for the purposes for which
17 bonds were sold unless the purposes can no longer be achieved,
18 in which case, the proceeds may be used to defease the bonds.

19 (j) Prepare a proposed administrative budget and submit it to
20 the oversight board for its approval. The proposed administrative
21 budget shall include all of the following:

22 (1) Estimated amounts for successor agency administrative costs
23 for the upcoming six-month fiscal period.

24 (2) Proposed sources of payment for the costs identified in
25 paragraph (1).

26 (3) Proposals for arrangements for administrative and operations
27 services provided by a city, county, city and county, or other entity.

28 (k) Provide administrative cost estimates, from its approved
29 administrative budget that are to be paid from property tax revenues
30 deposited in the Redevelopment Property Tax Trust Fund, to the
31 county auditor-controller for each six-month fiscal period.

32 (l) (1) Before each ~~six-month~~ *annual* fiscal period, prepare a
33 Recognized Obligation Payment Schedule in accordance with the
34 requirements of this paragraph. For each recognized obligation,
35 the Recognized Obligation Payment Schedule shall identify one
36 or more of the following sources of payment:

37 (A) Low and Moderate Income Housing Fund.

38 (B) Bond proceeds.

39 (C) Reserve balances.

40 (D) Administrative cost allowance.

1 (E) The Redevelopment Property Tax Trust Fund, but only to
2 the extent no other funding source is available or when payment
3 from property tax revenues is required by an enforceable obligation
4 or by this part.

5 (F) Other revenue sources, including rents, concessions, asset
6 sale proceeds, interest earnings, and any other revenues derived
7 from the former redevelopment agency, as approved by the
8 oversight board in accordance with this part.

9 (2) A Recognized Obligation Payment Schedule shall not be
10 deemed valid unless all of the following conditions have been met:

11 (A) A Recognized Obligation Payment Schedule is prepared
12 by the successor agency for the enforceable obligations of the
13 former redevelopment agency. The initial schedule shall project
14 the dates and amounts of scheduled payments for each enforceable
15 obligation for the remainder of the time period during which the
16 redevelopment agency would have been authorized to obligate
17 property tax increment had the redevelopment agency not been
18 dissolved.

19 (B) The Recognized Obligation Payment Schedule is submitted
20 to and duly approved by the oversight board. The successor agency
21 shall submit a copy of the Recognized Obligation Payment
22 Schedule to the county administrative officer, the county
23 auditor-controller, and the Department of Finance at the same time
24 that the successor agency submits the Recognized Obligation
25 Payment Schedule to the oversight board for approval.

26 (C) A copy of the approved Recognized Obligation Payment
27 Schedule is submitted to the county auditor-controller and both
28 the Controller's office and the Department of Finance and be posted
29 on the successor agency's Internet Web site.

30 (3) The Recognized Obligation Payment Schedule shall be
31 forward looking to the next ~~six months~~ *year for the period*
32 *commencing on January 1, 2015*. The first Recognized Obligation
33 Payment Schedule shall be submitted to the Controller's office
34 and the Department of Finance by April 15, 2012, for the period
35 of January 1, 2012, to June 30, 2012, inclusive. This Recognized
36 Obligation Payment Schedule shall include all payments made by
37 the former redevelopment agency between January 1, 2012, through
38 January 31, 2012, and shall include all payments proposed to be
39 made by the successor agency from February 1, 2012, through
40 June 30, 2012. Former redevelopment agency enforceable

1 obligation payments due, and reasonable or necessary
2 administrative costs due or incurred, prior to January 1, 2012, shall
3 be made from property tax revenues received in the spring of 2011
4 property tax distribution, and from other revenues and balances
5 transferred to the successor agency.

6 (m) The Recognized Obligation Payment Schedule for the period
7 of January 1, 2013, to June 30, 2013, shall be submitted by the
8 successor agency, after approval by the oversight board, no later
9 than September 1, 2012. Commencing with the Recognized
10 Obligation Payment Schedule covering the period July 1, 2013,
11 through December 31, 2013, successor agencies shall submit an
12 oversight board-approved Recognized Obligation Payment
13 Schedule to the Department of Finance and to the county
14 auditor-controller no fewer than 90 days before the date of property
15 tax distribution. The Department of Finance shall make its
16 determination of the enforceable obligations and the amounts and
17 funding sources of the enforceable obligations no later than 45
18 days after the Recognized Obligation Payment Schedule is
19 submitted. Within five business days of the department's
20 determination, a successor agency may request additional review
21 by the department and an opportunity to meet and confer on
22 disputed items. The meet and confer period may vary; an untimely
23 submittal of a Recognized Obligation Payment Schedule may result
24 in a meet and confer period of less than 30 days. The department
25 shall notify the successor agency and the county auditor-controllers
26 as to the outcome of its review at least 15 days before the date of
27 property tax distribution.

28 (1) The successor agency shall submit a copy of the Recognized
29 Obligation Payment Schedule to the Department of Finance
30 electronically, and the successor agency shall complete the
31 Recognized Obligation Payment Schedule in the manner provided
32 for by the department. A successor agency shall be in
33 noncompliance with this paragraph if it only submits to the
34 department an electronic message or a letter stating that the
35 oversight board has approved a Recognized Obligation Payment
36 Schedule.

37 (2) If a successor agency does not submit a Recognized
38 Obligation Payment Schedule by the deadlines provided in this
39 subdivision, the city, county, or city and county that created the
40 redevelopment agency shall be subject to a civil penalty equal to

1 ten thousand dollars (\$10,000) per day for every day the schedule
2 is not submitted to the department. The civil penalty shall be paid
3 to the county auditor-controller for allocation to the taxing entities
4 under Section 34183. If a successor agency fails to submit a
5 Recognized Obligation Payment Schedule by the deadline, any
6 creditor of the successor agency or the Department of Finance or
7 any affected taxing entity shall have standing to and may request
8 a writ of mandate to require the successor agency to immediately
9 perform this duty. Those actions may be filed only in the County
10 of Sacramento and shall have priority over other civil matters.
11 Additionally, if an agency does not submit a Recognized Obligation
12 Payment Schedule within 10 days of the deadline, the maximum
13 administrative cost allowance for that period shall be reduced by
14 25 percent.

15 (3) If a successor agency fails to submit to the department an
16 oversight board-approved Recognized Obligation Payment
17 Schedule that complies with all requirements of this subdivision
18 within five business days of the date upon which the Recognized
19 Obligation Payment Schedule is to be used to determine the amount
20 of property tax allocations, the department may determine if any
21 amount should be withheld by the county auditor-controller for
22 payments for enforceable obligations from distribution to taxing
23 entities, pending approval of a Recognized Obligation Payment
24 Schedule. The county auditor-controller shall distribute the portion
25 of any of the sums withheld pursuant to this paragraph to the
26 affected taxing entities in accordance with paragraph (4) of
27 subdivision (a) of Section 34183 upon notice by the department
28 that a portion of the withheld balances are in excess of the amount
29 of enforceable obligations. The county auditor-controller shall
30 distribute withheld funds to the successor agency only in
31 accordance with a Recognized Obligation Payment Schedule
32 approved by the department. County auditor-controllers shall lack
33 the authority to withhold any other amounts from the allocations
34 provided for under Section 34183 or 34188, unless required by a
35 court order.

36 (n) Cause a postaudit of the financial transactions and records
37 of the successor agency to be made at least annually by a certified
38 public accountant.

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